

§ 2.1212

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law admitted as part of the contentions in the proceeding;

(2) The appropriate ruling, order, or grant or denial of relief with its effective date;

(3) The action the NRC staff shall take upon transmittal of the decision to the NRC staff under paragraph (e) of this section, if the initial decision is inconsistent with the NRC staff action as described in the notice required by § 2.1202(a); and

(4) The time within which a petition for Commission review may be filed, the time within which any answers to a petition for review may be filed, and the date when the decision becomes final in the absence of a petition for Commission review or Commission sua sponte review.

(d) Pending review and final decision by the Commission, an initial decision resolving all issues before the presiding officer is immediately effective upon issuance except:

(1) As provided in any order issued in accordance with § 2.1211 that stays the effectiveness of an initial decision; or

(2) As otherwise provided by this part (e.g., § 2.340) or by the Commission in special circumstances.

(e) Once an initial decision becomes final, the Secretary shall transmit the decision to the NRC staff for action in accordance with the decision.

§ 2.1212 Petitions for Commission review of initial decisions.

Parties may file petitions for review of an initial decision under this subpart in accordance with the procedures set out in § 2.341. Unless otherwise authorized by law, a party to an NRC proceeding must file a petition for Commission review before seeking judicial review of an agency action.

§ 2.1213 Application for a stay.

(a) Any application for a stay of the effectiveness of the NRC staff's action on a matter involved in a hearing under this subpart must be filed with the presiding officer within five (5) days of the issuance of the notice of the NRC staff's action under § 2.1202(a) and must be filed and considered in accordance with paragraphs (b), (c) and (d) of this section.

(b) An application for a stay of the NRC staff's action may not be longer than ten (10) pages, exclusive of affidavits, and must contain:

(1) A concise summary of the action which is requested to be stayed; and

(2) A concise statement of the grounds for a stay, with reference to the factors specified in paragraph (d) of this section.

(c) Within ten (10) days after service of an application for a stay of the NRC staff's action under this section, any party and/or the NRC staff may file an answer supporting or opposing the granting of a stay. Answers may not be longer than ten (10) pages, exclusive of affidavits, and must concisely address the matters in paragraph (b) of this section as appropriate. Further replies to answers will not be entertained.

(d) In determining whether to grant or deny an application for a stay of the NRC staff's action, the following will be considered:

(1) Whether the requestor will be irreparably injured unless a stay is granted;

(2) Whether the requestor has made a strong showing that it is likely to prevail on the merits;

(3) Whether the granting of a stay would harm other participants; and

(4) Where the public interest lies.

(e) Any application for a stay of the effectiveness of the presiding officer's initial decision or action under this subpart shall be filed with the Commission in accordance with § 2.342.

Subpart M—Procedures for Hearings on License Transfer Applications

SOURCE: 63 FR 66730, Dec. 3, 1998, unless otherwise noted.

§ 2.1300 Scope of subpart M.

The provisions of this subpart, together with subpart C of this part, govern all adjudicatory proceedings on an application for the direct or indirect transfer of control of an NRC license when the transfer requires prior approval of the NRC under the Commission's regulations, governing statutes, or pursuant to a license condition. This subpart provides the only mechanism for requesting hearings on license